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Supreme Court, U.S.
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No. 991607 FEB 22 2000

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In the

Supreme Court of the United States

October Term, 1999

In re: Robert P. Carr, Jr.,
Petitioner, *Pro Per, Sui Juris*

v.

James T. Giles, Chief Judge
In The United States District Court
For The Eastern District of Pennsylvania,
Case Dist CT # 99-MC-237
Respondent,

UNITED STATES OF AMERICA
Real Party in Interest

PETITION FOR A WRIT OF MANDAMUS

Robert P. Carr, Jr. - *Petitioner, Pro Per, Sui Juris*
32nd Judicial District
448 Kenwood Road
Drexel Hill, Pennsylvania
[No ZIP Code!]
Phone No. (610) 626-9712

37 RP

Questions Presented

1.) Whether, the Supreme Court of the United States is a Judicial Court?

2.) Whether, the United States District Court is a Judicial Court?

3.) Whether, the United States Circuit Court of Appeals is a Judicial Court?

4.) Whether, the Supreme Court of the United States, under the Supreme Court's Appellate jurisdiction, can take jurisdiction of an appeal from an Order or Judgment of a non-judicial Court?

5.) Whether, the Rules of the Supreme Court, under Title 28 United States Code, bar the Supreme Court exercising the Court's Appellate jurisdiction?

6.) Whether, the Chief Judge of the United States District Court for the Eastern District of Pennsylvania can bar a Citizen of the Commonwealth of Pennsylvania from filing in a Judicial Court?

Parties to the Proceedings

The petitioner is Robert P. Carr, Jr., *Pro Per, Sui Juis.*

The respondents are:

Janet Reno
The Office of Attorney General of the United States, Department of Justice, 10th St. & Constitution Ave., N.W., Washington, D.C. 20530; [phone # (202) 514-2000]

Walter E. Dellinger
The Office of the Solicitor General of the United States, Department of Justice, 10th St. & Constitution Ave., N.W., Washington, D.C. 20530; [phone # (202) 514-2000]

U.S. District Court Chief Judge James T. Giles
c\o Office of the Clerk, United States District Court Philadelphia, PA 19106-1797; [phone #]

U.S. District Court Judge Jay C. Waldman
c\o Office of the Clerk, United States District Court Philadelphia, PA 19106-1797; [phone #]

United States District Court for the Eastern District of Pennsylvania, Dist. Ct. #99-MC-237
c\o Office of the Clerk, United States District Court Philadelphia, PA 19106-1797; [phone #]

Nancy Griffin
Assistant United States Attorney, 615 Chestnut St., Suite 1250, Philadelphia, PA. 19106; [phone # (215) 451-5250]

James Argir, Revenue Officer
Internal Revenue Service, 1400 N. Providence Rd., Suite 100, Media, PA. 19063; [phone #]

With the United States of America being the real party in interest.

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In the Supreme Court of the United States

October Term, 1999

No._____

In re: Robert P. Carr, Jr.,
Petitioner, *Pro Per, Sui Juris*

v.

James T. Giles, Chief Judge
In The United States District Court
For The Eastern District of Pennsylvania,
Case Dist CT # 99-MC-237
Respondent,

UNITED STATES OF AMERICA.
Real Party in Interest.

PETITION FOR A WRIT OF MANDAMUS

The instant Petition for a Writ of Mandamus raises a question rudimentary to whether a federal judge setting in the United States District Court can bar a court filling directed to a District Court enacted by Congress as a Judicial Court, thereby creating an estoppel to the Supreme Court accessing this Court's appellate jurisdiction as authorized by Article III, section 2 of the Constitution for the United States.

Robert P. Carr, Jr., (hereafter Petitioner), on or about November 18, 1999 filed through the Clerk of the District

Court a Petition for an Alternative Writ of Prohibition and a Motion for Stay to the District Court, an inferior judicial court authorized by Article III, section 1 of the Constitution for the United States and enacted by the Act of Congress of September 14, 1789, FIRST CONGRESS, Sess. I, Ch. 20, section (a)(3), United States Statutes At Large, Vol. I, page 73.

Chap XX.--An Act to establish the Judicial Courts of the United States.

Section 2. "And be it further enacted, That the United States shall be, and they hereby are divided into thirteen districts..."

Section 3. "And be it further enacted, That there be a court called a District Court, in each of the aforementioned districts..."

Petitioner request this Court take judicial notice of the court caption in case number 99-MC-237, to wit:

IN THE DISTRICT COURT
SETTING IN THE COMMONWEALTH
OF PENNSYLVANIA AT THE
COUNTY OF PHILADELPHIA

Petitioner filed Petitioner's Petition for an Alternative Writ of Prohibition and Motion for Stay to the District Court under the aforesaid Acts as a Judicial Court exercising jurisdiction in a United States Judicial District, an inferior Judicial Court to the Supreme Court. The Clerk of the

District Court setting in the Commonwealth of Pennsylvania demanded a fee of $20.00 dollars and said fee was paid in full. **(APP 1A)**

Petitioner further request under the Rules of the Supreme Court, Rule 20, that exceptional circumstances warranting the exercise of this Court's discretionary powers are warranted, and that Petitioner can not seek adequate relief in any other form or from any other Judicial Court.

Petitioner is not appealing the aforesaid orders issued by United States District Court Judge Jay C. Waldman and United States District Court Chief Judge James T. Giles, as these orders were issued under the authority of these judges acting upon the limited jurisdiction of the United States District Court. The United States District Court is in want of jurisdiction, because jurisdiction of the aforesaid Petition and Motion for Stay were filed in the District Court, which has jurisdiction of said Petition and Motion for Stay.

Petitioner is being estoppeled by the aforesaid orders from accessing the District Court in case number 99-MC-237, thereby creating an estoppel to the Supreme Court's appellate jurisdiction, a granted jurisdiction by Article III, section 2 of the Constitution for the United States to be exercised

by the Supreme Court of the United States. These aforesaid orders would be in contempt of Article III, section 2 of the Constitution of the United States.

JURISDICTION

The jurisdiction of The Supreme Court of the United States is invoked pursuant to Article III, sections 1 and 2 of the Constitution for the United States.

Pursuant to section 1, the Supreme Court is a Court authorized by the Constitution and enacted by the Act of Congress of Sept. 14, 1789, FIRST CONGRESS, Sess I, Ch. 20, section 1, United States Statutes At Large, Vol. I, page 73, a Court vested with the judicial power of the United States, a Judicial Court.

Pursuant to section 2; "The judicial power shall extend to all Cases, in Law...arising under this Constitution and the Laws of the United States...to Controversies to which the United States shall be a party... In all other cases before mentioned, the supreme court shall have appellate jurisdiction..."

This Courts jurisdiction is further invoked by the JUDICIARY ACT OF June 25, 1948, 62 Stat. 80th CONG., 2d Sess., CH. 646, section 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III, Sections 1 and 2 to the Constitution for the United States of America:

Section 1; "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish...."

Section 2; "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States .... to Controversies to which the United States shall be a Party.... In all other cases before mentioned, the supreme court shall have appellate jurisdiction..."

Judiciary Act of June 25 1948, 62 Stat., 80th CONG., 2d SESS. CH 646, § 1651 (a): "(a) The Supreme Court and all courts established by Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions agreeable to the usages and principles of law."

STATEMENT OF THE CASE

On or about November 18, 1999, Petitioner filed a Petition for an Alternative Writ of Prohibition and Motion for Stay in the District Court Pursuant to Article III, Section 1 Constitution for the United States of America; and,

On or about November 22, 1999, United States District Court Judge Jay C. Waldman, DENIED Petitioner's Petition for an Alternative Writ of Prohibition Pursuant to Article III, Section 1 Constitution for the United States of America; **(APP 2A-3A)** and,

On or about December 7, 1999, Petitioner filed through the Clerk of the District Court, directed to the District Court enacted by Congress on September 14, 1789, FIRST CONGRESS, Sess. I, Ch. 20, section(a)(3), United States Statutes At Large, Vol. I, page 73 Petitioner's Objection to Court Order of Nov. 22, 1999; **(APP 4A-13A)** and,

On or about December 17, 1999, United States District Court Chief Judge James T. Giles DENIED Petitioner's Objection of Court Order of Nov. 22, 1999. **(APP 14A)**

REASONS FOR GRANTING THE PETITION

Petitioner, states that the failure to assign case number 99-MC-237 to a District Court established as a "Judicial" Court would bar Petitioner from enacting the appellate jurisdiction of the Supreme Court of the United States, which would be a violation of due process as established by the Fifth Article in Amendment to the Constitution for the United States.

"ESTOPPEL - Estoppel means that party is prevented by his own acts from claiming a right to detriment of other party who was entitled to rely on such conduct and has acted accordingly. Graham v. Asbury, 112 Ariz. 184, 540 P. 2d 656, 658. * * *

Estoppel is a bar or impediment which precludes allegation or denial of a certain fact or state of facts, in consequence of a final adjudication of the matter in a court of law. It operates to put a party entitled to its benefits in same position as if the thing represented were true. May v. City of Kearney, 145 Neb 475, 17 N.W. 2d 448, 458." Black's Law Dictionary, 5th Ed., (1979), p. 494, Title: "Estoppel."

If you have knowledge that a particular violation of constitutional limitations exists and fail to assert it, it will be deemed waived for all intents and purposes and that waiver will be the law of the case; in other words, if Petitioner's jurisdictional claim has been adjudicated, the doctrine of res

judica applies, and Petitioner's appeal to the appellate jurisdiction of the Supreme Court would be deemed waived.

Petitioner seeks to preserve Petitioner's right to enact the appellate jurisdiction of the Supreme Court of the United States. The Supreme Court being a Judicial Court created by the Act of Congress of Sept. 14, 1789, FIRST CONGRESS, Sess. I, Ch. 20, United States Statutes At Large, Vol. I, page, 73.

Chap XX.--An Act to establish the Judicial Courts of the United States.

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supreme court of the United States shall consist of a chief justice and five associate justices..."

The Supreme Court cannot proceed under the appellate jurisdiction from a judgment under the limited jurisdiction of the United States District Court, as the United States District Court is not a "Judicial" Court. The Supreme Court of the United States can only accept appeals under the Supreme Court's appellate jurisdiction when a Motion, Appeal, Writ, or other process comes from a contested judgment of an inferior "Judicial Court".

Petitioner is without remedy to compel the Respondents to

do their ministerial duty herein complained of without creating an estoppel and waiver of any defenses in relation thereto. Petitioner would be denied access to the appellate jurisdiction of the Supreme Court should Petitioner be forced to have Petitioner's case heard under the non-judicial limited jurisdiction of the United States District Court. Hereby, establishing Petitioner's case outside of the provisions of Article III, section 2 of the Constitution for the United States. "In all other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact,..." This issue is clearly stated by the Supreme Court in *Gordon v. United States*, (1885), 117 U.S. 697.

"...And Congress cannot extend the appellate power of this Court beyond the limits prescribed by the Constitution, ...or any other tribunal exercising only special powers under an act of Congress;..." *Gordon v. United States*, (1885), 117 U.S. 697.

"The powers conferred by these acts of Congress upon the judge, as well as the Secretary, are, it is true, judicial in their nature. For judgment and discretion must be exercised by both of them. But it is nothing more than the power ordinarily given by law to a commissioner... A power of this description...But it is not judicial in either case, in the sense in which judicial power is granted by the Constitution to the Courts of the United States...And it is very clear that this Court has no appellate power over these special tribunals, and cannot, under the Constitution, take jurisdiction of any decision, upon appeal, unless it was made by an inferior court, exercising independently the judicial power granted to the United States. It is only from such

judicial decisions that appellate power is given to the Supreme court". *Gordon v. United States*, (1885), 117 U.S. 697.

It is clear that the United States District Court is not a "Judicial Court" and for Petitioner to seek process under the jurisdiction of the United States District Court would create an "Estoppel" to Petitioner's enacting the appellate jurisdiction of the Supreme Court.

Petitioner can not appeal to the United States Circuit Court of Appeals as the Circuit Court under the Act of Congress of September 14, 1789, FIRST CONGRESS, Sess. I, Ch. 20, section 4, United States Statutes At Large, Vol. I, page 73 was enacted by Congress as a Judicial Court, but Congress under the Judiciary Act of 1911, SIXTY-FIRST CONGRESS, Sess. III, Ch. 231, section 289, page 1167 abolished this Judicial Court.

"The circuit courts of the United States, upon the taking effect of this Act, shall be, and hereby are, abolished;..."

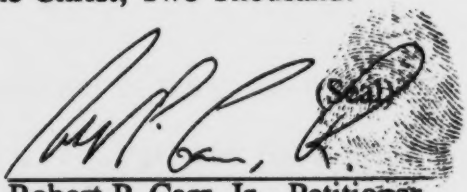
The United States Circuit Court of Appeals is not by Act of Congress established as a Judicial Court, and Petitioner would have the same jurisdictional bar appealing from the United States Circuit Court of Appeals as Petitioner

would have from the United States District Court to appeal under the appellate jurisdiction of the Supreme Court of the United States, from the limited jurisdiction of a non-judicial Court such as the United States District Court, or the United States Circuit Court of Appeals.

CONCLUSION

THEREFORE, Petitioner respectfully request having duly made application, verified by oath, this Court issue the instant Writ of Mandamus, and for an Order directing the Chief Judge of the United States District Court, James T. Giles, to re-assign case number 99-MC-237 to the District Court enacted as a Judicial Court by the aforesaid Acts of Congress.

DATED this 4th day of February, in the Year of our Lord and Savior, Jesus the Christ, Two Thousand.



Robert P. Carr, Jr - Petitioner
Thirty-second Judicial District
448 Kenwood Road
Drexel Hill, Pennsylvania
[No ZIP Code!]
Phone No. (610) 626-9712

In the Supreme Court of the United States

October Term, 1999

In re: ROBERT P. CARR, JR., Petitioner, v. Dist. ct. #99-MC-237 United States District Court for the Eastern District of Pennsylvania, Respondent, UNITED STATES OF AMERICA, Real Party in Interest.	) CASE) NO.) _____)))) PETITIONER'S) AFFIDAVIT) OF GOOD) FAITH)))

I, Robert P. Carr, Jr., being put upon due and solemn affirmation hereby state:

I, Robert P. Carr, Jr., Petitioner in the entitled petition, hereby state that the Petition for a Writ of Mandamus, submitted herewith, are true and correct to the best of my knowledge, is made and executed by me in good faith, and not for the purpose of delay or any other unjusti-

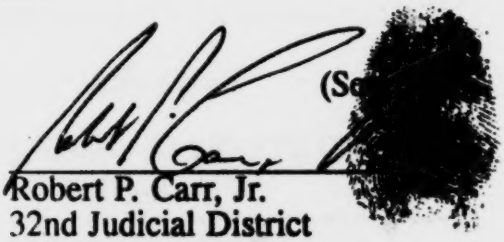
fied purpose.

I further state under penalty of purjury that the foregoing is true and correct. Executed on February, 4th, 2000.

FURTHER AFFIANT SAITH NOT.

COMMONWEALTH OF PENNSYLVANIA)
:Affirmed
County of Delaware)

SUBSCRIBED AND AFFIRMED this 4th day of February, in the County of Delaware, in the Commonwealth of Pennsylvania, in the Year of our Lord and Savior Jesus the Christ, Two Thousand.



Robert P. Carr, Jr.
32nd Judicial District
448 Kenwood Road
Drexel Hill, Pennsylvania
[No ZIP Code!]
(610) 626-9712

We, the undersigned, witness this day that one known to us to be the above signatory did personally appear before us in County of Delaware, in the Commonwealth of Pennsylvania, and upon due affirmation execute and affix the above signature and seal hereto.

Denis Sweeney, a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Denis Sweeney 6913 Guilford rd Upper Darby Pennsylvania.

Michael Daley, a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Michael Daley 329 Abbey Terrace Drexel Hill Pennsylvania.

Michael K Hennessy, a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Michael K. Hennessy 907 Pritchard Pl. Newtown Sq. Pennsylvania

In the Supreme Court of the United States

October Term, 1999

In re: ROBERT P. CARR, JR., Petitioner, v. Dist. ct. #99-MC-237 United States District Court for the Eastern District of Pennsylvania, Respondent, UNITED STATES OF AMERICA, Real Party in Interest.	) CASE NO. _____) PETITIONER'S AFFIDAVIT OF SERVICE

I, Michael Daley, the undersigned, upon due affirmation, hereby state that, on behalf of Robert P. Carr, Jr., the above named Petitioner, I served upon the **Clerk of the Supreme Court of the United States**, one (1) original of *Petitioner's Petition for a Writ of Mandamus with Appendixes*, one (1) original of *Petitioner's Affidavit of Good Faith*, and one (1) original of *Petitioner's Affidavit of Service*, forty (40) true and correct copies of the aforesaid pleadings, with docketing fee enclosed, by placing all of the aforesaid originals and copies, with enclosed docketing fee in a sealed envelope, first class postage pre-

paid, **certified mail number** Z 393 961 224,

return receipt requested, with the United States Postal

Service, addressed to:

Office of Clerk for the Supreme Court of the United States
1 First Street,N.E.
Washington, D.C. 20543; and,

That on the same day I served three (3) true and correct copies of the aforesaid pleadings upon each of the following **Parties of Interest** by placing the aforesaid pleadings in a sealed envelope, first class postage pre-paid, certified mail, return receipt requested, with the United States Postal Service, addressed to:

The Office of Attorney General of the United States
Department of Justice
10th St. & Constitution Ave..N.W.
Washington, D.C. 20530
Certified Mail No. Z 393 961 225; and,

The Office of the Solicitor General of the United States
Department of Justice
10th St. & Constitution Ave., N.W.
Washington, D.C. 20530
Certified Mail No. Z 393 961 226; and,

U.S. District Court Chief Judge James T. Giles
c\o Office of the Clerk
United States District Court
Philadelphia, PA 19106-1797
Certified Mail No. Z 393 961 227; and,

U.S. District Court Judge Jay C. Waldman
c\o Office of the Clerk, United States District Court
Philadelphia, PA 19106-1797
Certified Mail No. Z 393 961 223; and,

United States District Court for the Eastern District of Pennsylvania, Dist. Ct. #99-MC-237
c\o Office of the Clerk, United States District Court
Philadelphia, PA 19106-1797
Certified Mail No. Z 393 961 228 ; and,

Nancy L. Griffin, Assistant U.S. Attorney
615 Chestnut St., Suite 1250
Philadelphia, PA. 19106
Certified Mail No. Z 393 961 229 ; and,

James Argir, Revenue Officer
1400N. Providence Rd., Suite 100
Media, PA. 19063
Certified Mail No. Z 393 961 230 ; and,

I further state under penalty of perjury that the foregoing is true and correct. Executed on February, 16th, 2000.

FURTHER AFFIANT SAITH NOT.

COMMONWEALTH OF PENNSYLVANIA)
:Affirmed
County of Delaware)

SUBSCRIBED AND AFFIRMED this 16th day of February, in the County of Delaware, in the Commonwealth of Pennsylvania, in the Year of our Lord and Savior Jesus the Christ, Two Thousand.

(Seal)

Michael Daley

Server Name Michael Daley

Address 329 Abbey Terrace

City & State Drexel Hill Pennsylvania

We, the undersigned, witness this day that one known to us to be the above signatory did personally appear before us in County of Delaware, in the Commonwealth of Pennsylvania, and upon due affirmation execute and affix the above signature and seal hereto.

Denis Sweeney, a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Denis Sweeney 6913 Guilford rd. Upper Darby Pennsylvania.

[signature], a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Robert P. Carr, Jr. 32nd Judicial District, 448 Kenwood Road Drexel Hill, Pennsylvania

Michael K Hennessy, a Citizen in the Commonwealth of Pennsylvania.

Print Name & Address: Michael K Hennessy 907 Pritchard Pl Newtown Sq Pennsylvania

BEST AVA

APPENDIX A

Thu Nov 18 10:49:07 1999

UNITED STATES DISTRICT COURT

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99MC237

CARR

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APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

ROBERT P. CARR, Jr.
v.
UNITED STATES OF AMERICA

CIVIL ACTION NO. 99-mc-237

FILED
NOV 23 1999
By /s/ ineligible Dep. Clerk

ORDER

AND NOW, this s/s 22d day of November, 1999, upon consideration of defendant's Petition for an Alternative Writ of Prohibition (Doc. #1), Petition for Stay Pending Final Disposition of Writ of Prohibition (Doc. #2), and Motion for Christian Free White Man Judge (Doc. #3), because although the court accepts petitioner's claim that he is a citizen of Pennsylvania, his factual averments show contrary to his conclusion he is in fact also a citizen of the United States; because Judge Brody clearly had jurisdiction to order Mr. Carr to comply with IRS summonses in the underlaying cases of United States v. Carr at Civ. Nos. 98-6354 & 98-

6355; because a judge of this court does not in any event have the authority to enjoin or nullify the official action of another judge of this court; because a litigant has no constitutional, statutory or other right to require that an action in which he is a party be adjudicated by a judge of a particular gender, race of creed; and because in any event no judge faithful to his or her oath could hold that petitioner is not subject to the tax and other laws of the United States however earnest or intense his belief to the contrary may be, **IT IS HEREBY ORDERED** that defendant's Petition for an Alternative Writ of Prohibition, Petition for Stay Pending Final Disposition of Writ of Prohibition and Motion for Christian Free White Man Judge are **DENIED** and the above civil action is DISMISSED.

BY THE COURT:

/s/ ineligible
JAY C. WALDMAN, J.

COPIES BY MAIL ON: /S/ 11\23\99
TO: R. Carr

APPENDIX C

IN THE DISTRICT COURT
SETTING IN THE COMMONWEALTH
OF PENNSYLVANIA
AT THE COUNTY OF PHILADELPHIA

In Re: ROBERT P. CARR, JR.
Petitioner,
vs.
UNITED STATES DISTRICT COURT
CIVIL ACTIONS FILE NO.
98-6354 98-6355

Respondents,
ANITA B. BRODY, J.
U.S. DISTRICT COURT JUDGE
and,
NANCY GRIFFIN,
ASSISTANT U.S. DISTRICT ATTORNEY
and,
JAMES ARGIR, REVENUE OFFICER
INTERNAL REVENUE SERVICE
Opposing Parties in Interest

CASE NO. 99-MC-237

OBJECTION TO ORDER OF NOV. 22, 1999, AND DEMAND FOR RE-ASSIGNMENT TO PROPER DISTRICT COURT PURSUANT TO ARTICLE III, SECTION 1 OF THE CONSTITUTION FOR THE UNITED STATES

FILED

DEC 7 199
MICHAEL E. KUNZ, Clerk

By /s/ RB Dep. Clerk

TO: Hon. JAMES T. GILES, Chief judge,

Comes now your Petitioner, Robert P. Carr,Jr., a free white Citizen of the Commonwealth of Pennsylvania, *sui juris* (of his own right), *in propria persona* (in his proper person), to object to the Order to dismiss Petitioner's Petition for Alternative Writ of Prohibition, Petition for stay, and Motion for a Christian free White Man Judge of Hon. JAY C. WALDMAN, judge setting under the limited authority of the United States District Court, filed, Nov. 23, 1999. Petitioner, petitions the Hon. JAMES T. GILES. Chief judge, of the District Court put aside the Order of Hon. JAY C. WALDMAN and reassign case 99-MC-237 to the District Court, pursuant to Article III, section 1., for the Constitution of the United States.

Petitioner's petition for Alternative Writ of Prohibition, Petition for stay, and Motion for Christian free White Man Judge was addressed to the District Court setting in a United States judicial District of the Commonwealth of Pennsylvania. Petitioner's process was not addressed to the United States District Court or the District Court of the United States, as under Chapter 5 of Title 28 being one and the same Court.

The Hon. JAY C. WALDMAN setting as a judge in and under the power of the United States District Court is barred from taking jurisdiction of the instant process as this Court is not a Court in possession of the judicial power of the United States, pursuant to Article III section 1 of the Constitution for the United States and construes a Bill of Attainder in the form of a Bill of pains and penalties. A bill of Attainder is a special Act of the legislature which inflicts punishment without a judicial trial. If punishment is less than death, the Act is called a "bill of pains and penalties."

"A bill of attainder is defined to be "a legislative Act which inflicts punishment without judicial trial," where the legislative body exercises the office of judge, and assumes judicial magistracy, and pronounces on the guilt of a party without any of the forms or safeguards of a trial, and fixes the punishment". In re De Giacomo, (1874), 12 Blatchf. (U.S.) 391, 7 Fed.Cas.No. 3,747.

Justice Story referring to the judicial power of the United States:

"Section 1584. In considering the first clause of the third section, declaring, that "the judicial power of the United States shall be vested in one supreme Court, and in such inferior courts, as the congress may from time to time ordain and establish, we are naturally led to the inquiry, whether congress possesses any discretion as to the creation of a supreme Court and inferior courts, in whom the constitutional jurisdiction is to be vested. This was at one time a matter of much discussion; and is vital to the existence of the judicial department. If congress possess any discretion on this subject, it is obvious, that the judiciary, as a co-ordinate department of government, may at the

will of congress, be annihilated, or stripped of all its important jurisdiction; for, if the discretion exists, no one can say in what manner, or at what time, or under what circumstances it may, or ought to be exercised... The judicial power of the United States shall be vested (not may be vested) in one supreme Court, and in such inferior courts, as congress may, from time to time, ordain and establish...

"The judicial power must, therefore, be vested in some court by congress; and to suppose, that it was not an obligation binding on them, but might, at their pleasure, be omitted, or declined, is to suppose, that, under the sanction of the constitution, they might defeat the constitution itself. A construction, which would lead to such a result, can not be sound...."

"Section 1586. If then it is a duty of congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The language, if imperative, as to one part, is imperative, as to all. If it were otherwise, this anomaly would exist, that congress might successfully refuse to vest the jurisdiction in any one class of cases enumerated in the constitution, and thereby defeat the jurisdiction, as to all; for the constitution has not singled out any preference to others...

"It would seem, therefore, to follow, that congress are bound to create some inferior courts, in which to vest all that jurisdiction, which, under the constitution, is exclusively vested in the United States, and of which the supreme Court cannot take original cognizance. They might establish one or more inferior courts; they might parcel out the jurisdiction among such courts, from time to time, at their own pleasure. But the whole judicial power of the United states should be, at all times, vested either in an original or appellate form, in some courts created under its authority." Story Commentaries, (1833), Volume III, Ch. XXXVIII, pp. 449-452.

Justice Story in his Commentaries, (1833), Inferior Courts created by authority of Article III section1 must be vested

with the full judicial power or they posses none of the judicial power. The United States District Court is claimed by Congress to be created as an Inferior Court by authority of Article III. The United States District Court is claimed by the court to be a court of limited jurisdiction, See MEMORANDUM ORDER OF JANUARY 26, 1999, PAGE 4, LINES 10-11, OF U.S. District Court JUDGE ANITA B. BRODY, in Civil Actions No.'s 98-6354, 98-6355.

The United States District Court has a civil and criminal jurisdiction. It conducts jury trials. But can a Citizen be tried in the United States District Court by a jury or without a jury, but in a Court not possessing the full judicial power would be subject to a Bill of Attainder.

Petitioner has not filed Petitioner's Petition for Alternative Writ of Prohibition, Petition for stay, and Motion for Christian free White Man Judge claiming the Court has jurisdiction under Title 28 U.S.C. are rules and statutes to govern federal courts and grant them jurisdiction under the Due Process of the first section of the 14th Amendment. The due process of the 14th Amendment does not grant these Courts any of the judicial power of the United States, pursuant to

Article III, section 1. of the Constitution for the United States.

The Hon. JAY C. WALDMAN, Order states petitioner is a citizen of the United States, then refers to "... by a judge of a particular gender, race of creed;..." It is obvious, judge WALDMAN, is setting his Order within the purview of the first section of the 14th Amendment. Judge WALDMAN, further refers to case, UNITED STATES, ET AL vs. CARR at Civil Actions No. 98-6354, 98-6355 for authority to issue said Order through the authority of United States District Court. Petitioner assumes Judge WALDMAN, has excluded from his review of petitioner's exhibit in the instant Petition for Alternative Writ of Prohibition. as the Hon. ANITA B. BRODY, did in her Order (13 Aug., 1999) when declaring Petitioner's MOTION TO QUASH PETITION OF THE UNITED STATES FOR SHOW CAUSE HEARING FOR CONTEMPT OF COURT WITH MEMORANDUM IN SUPPORT (docket entry 14), is DENIED AS MOOT (docket entry 22).

Petitioner does not see judges acting through the limited jurisdiction of the United states District Court reviewing all the issues presented, but using the Rules of Civil Procedure

to avoid certain issues presented. Petitioner can see no difference from being in front of the United States District Court than being tried before the Congress, as stated by Judge Leavy, District Judge, in "COCHRAN et al. v. ST. PAUL & TACOMA LUMBER CO., 73 Fed. Supp. 288, 291";

"When we go to the other side of this question we begin first with the statement that is not subject to dispute or contradiction; which is that a United States District Court is purely a creature of the legislative branch of the government, generally provided for by the Constitution, but not, in a stricter sense, a constitutional court. Congress undoubtedly has the power to abolish these courts entirely, give them another name, or dispense with the services that they render. Certainly, in the lifetime of some of us we know we have changed what was once the Circuit Courts and gave them a new name, outlined their duties, and made them the "District Courts"; provided for an appellate court, designated the Circuit Court of Appeals. ....This Court is a creature of the Congress, and its jurisdiction, in reference to conferring and depriving it of jurisdiction comes from the Congress...."

To be tried in the United States District Court is in violation of Article I section 9 of the Constitution for the United States. The United States District Court is not in possession of the judicial power of the United States and would be proceeding in a Court not vested with any of the judicial power of the United States.

Petitioner did not file Petitioner's Petition for Alternative Writ of Prohibition, Petition for stay, and Motion for Christian free White Man Judge case No. 99-MC-237 to the limited jurisdiction of the United States District Court, but did file the instant case to the District Court as established by Congress, (Sept. 14, 1789) FIRST CONGRESS Sess I. Ch.20, United States Statutes At Large, Vol. I page.73

Chapter XX. - An Act to establish the Judicial Courts of the United States. (a)

Sec. 3. "And be it further enacted, that there be a court called a District Court, in each of the aforementioned districts..."

Footnote (a) above:
(a) "The 3d article of the Constitution of the United States enables the judicial department to receive jurisdiction to the full extent of the constitution..."
United States Statutes At Large, Vol. I page 73

Petitioner contends there is no act of Congress abolishing this District Court, vested with the judicial power of the

United States pursuant to Article III section 1 of the Constitution for the United States. It is this court that Petitioner has filed Petitioner's Petition for Alternative Writ of Prohibition, Petition for stay, and Motion for Christian free White Man Judge case No. 99-MC-237., a court in possession of the judicial power of the United states, a court superior to the United States District Court. A Court setting within the judicial district of the Commonwealth of Pennsylvania pursuant to Act of Congress of Sept. 24, 1789, 1 Stat., First CONG., SESS.1. Ch. XX, sec.2

Sec. 2. "And be it further enacted, that the United States shall be, and they hereby are divided into thirteen districts, to be limited and called as follows, to wit: ...one to consist of the State of Pennsylvania,..."

CONCLUSION

WHEREFORE, Petitioner, has filed Petitioner's process to a Constitutional Court setting in a Judicial District within the Constitutional sense of a republican form of government. Petitioner has the standing (status) to have recognition in the District Court in possession of the judicial power of the United States.

Petitioner, request that the Order of the Hon. JAY C.

WALDMAN, filed November 22, 1999, be canceled for want of jurisdiction. Petitioner further request that case 99-MC-237 be re-filed and further proceedings be held, so that Petitioner can have due process of law pursuant to the Bill of Rights to the Constitution for the United States, and that Petitioner be given the opportunity to be heard in a court of proper venue and jurisdiction.

Respectfully,

/s/s ineligible (seal)
right thumb print
Robert P. Carr, Jr.
in propria persona, sui juris
Thirty-second Judicial District
448 Kenwood Road
Drexel Hill, Pennsylvania
[No ZIP Code!]
Phone No. (610) 626-9712

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

ROBERT P. CARR, Jr.
v.
UNITED STATES OF AMERICA

CIVIL ACTION NO. 99-mc-237

FILED
/s/ RB

ORDER

AND NOW, this /s/ 17th day of December, 1999, upon consideration of defendant's Objection to Order of Nov. 22, 1999 and Demand for Re-assignment (Doc. #6). **IT IS HEREBY ORDERED** that said Objection is **DENIED.**

BY THE COURT:

/s/ James T. Giles, C.J.
JAMES T. GILES, C.J.

COPIES BY MAIL ON: /s/ 12/22/99
TO: /s/ R. Carr